



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,207	01/02/2002	Kenshi Katou	011214	6234

23850 7590 05/05/2004

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP  
1725 K STREET, NW  
SUITE 1000  
WASHINGTON, DC 20006

EXAMINER
----------

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/926,207

**Applicant(s)**

KATOU ET AL.

**Examiner**

Robert G. Santos

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/24/2001, 1/02/2002, and on 2/02/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 1-43 and 67-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-43 and 67-77 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the paper filed on February 2, 2004.

### *Priority*

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 44, 45, 52-54, 56, 57, 59, 60/59, 60/57, 60/56, 60/54, 60/53, 60/52, 60/45, 60/44, 61/59, 61/57, 62/59, 62/57, 62/56, 62/54, 62/53, 62/52, 62/45, 62/44, 63/59, 63/57, and 64-66 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bartlett et al. '096 (see Figures 1-6 & 8-12; column 6, lines 35-67; column 7, lines 1-22 & 58-67; column 8; column 9, lines 1-65; column 10; column 11; column 12, lines 1-61; and column 14, lines 16-55).

Art Unit: 3673

5. Claims 44, 45, 47-49, 52-59, 60/59, 60/58, 60/57, 60/56, 60/55, 60/54, 60/53, 60/52, 60/49, 60/48, 60/47, 60/45, 60/44, 61, 62/59, 62/58, 62/57, 62/56, 62/55, 62/54, 62/53, 62/52, 62/49, 62/48, 62/47, 62/44, 62/45, and 63-66 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ohshita '439 (see Figures 1, 2, 5, 6, 12, & 13; column 3, lines 24-68; column 4, lines 1-7 & 63-68; column 5; column 6, lines 1-60; column 7, lines 47-68; and column 8, lines 1-41).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 46-51, 55, 58, 60/58, 60/55, 60/51-60/46, 61/58, 62/58, 62/55, 62/51-62/46, and 63/58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartlett et al. '096.

Although Bartlett et al. '096 discloses the use of an angular position sensor (44) and a processor unit (42) for respectively controlling an angle of rotation of mattress (13) and rotational motion of the mattress, Bartlett et al. '096 does not specifically disclose the particular speed and angle values as recited in the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the bed of Bartlett et al. '096 to assume the speed and angle values as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Art Unit: 3673

8. Claims 46, 50, 51, 60/51, 60/50, 60/46, 62/51, 62/50, and 62/46 rejected under 35 U.S.C. 103(a) as being unpatentable over Ohshita '439. Ohshita '439 does not specifically disclose a condition wherein the back and leg rising bottom sections of the mattress (12) are manipulated at the particular speeds recited in the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the bed of Ohshita '439 to assume the speed values as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

#### ***Conclusion***

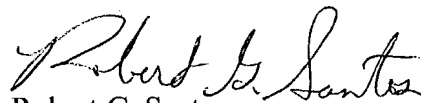
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bartlett et al. '950, Mariño '729, Park '572, and Cary et al. '988.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tu-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
May 3, 2004